

LITTLE BLUE BOOK NO. 1638
Edited by E. Haldeman-Julius

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NOTES ON CASES OF SEXUAL SUPPRESSION

Frank Vincent Waddy

There is a growing tendency noticeable in the rush of modern life to ignore, or to make insufficient allowance for, the results of suppression, sexual or otherwise. Many persons, principally women, are struggling daily under the burden of some hidden inhibition, necessarily imposed by the limitations of their lives, which is warping their mental outlook, distorting their sense of proportion and engendering delusions, misconceptions and hallucinations in the mind of the subject, the effects of which are sometimes equally distressing to both the patients and their friends.

The psychiatrist is of course familiar with these phenomena but it is easy for the layman to overlook this contributing cause as an explanation of some of the surprising outbreaks of anger, fits of seeming unreasonableness, attacks of foolish and groundless suspicion and other examples of hysterical or abnormal behavior in persons usually sane in conduct and fair in judgment. Thus the immediate exciting cause of such an outburst may be the ill-timed or hasty remark of some friend which served as a spark to touch off the explosive, but the underlying or primary cause is suppression of some kind which has been piling up a cumulative pressure within the subject for months or perhaps years.

We are sometimes astonished at the bitter words and unjust implications of some person

whom we inwardly admire and respect. If we have time to think before giving way to temper we realize at once: "He is not himself this morning. He doesn't really mean that," or—"Miss So-and-so seldom talks that way. She is irritated about something and is taking it out on me."

The following notes on two actual cases which the writer is at present attempting with some success to treat psychoanalytically may be of interest to the general reader.

Mrs. A, aged 38, has lived with her husband and an adopted daughter for 17 years. She had one child who died in infancy. For the last 12 years she has had no amative relations with her husband, who is ailing, morose and coldly indifferent. Marital affection is irrevocably dead. She has partially expressed her affections on the adopted girl (aged 16) and on animal pets, but the unsatisfied craving for another child of her own has led to a case of aggravated hysteria interesting to students of psychology but sometimes alarming to her friends and family.

With almost monthly regularity this woman suddenly acquires a totally unfounded and grotesque illusion that some friend has turned against her and is trying to injure her in some way. Without warning the unsuspecting friend receives an urgent telephone call to go and see Mrs. A at once—something very important. The visitor upon arrival perceives at once that a hysterical attack is imminent, and, if prudent, ignores the stream of accusations, grievances, and neurotic symptoms, and does his

or her best to calm the patient down. Within a few minutes a fit of hysterical screaming and weeping ensues and the patient after that is usually relieved.

No amount of argument can convince Mrs. A. that the innocent neighbor was not to blame. It is a remarkable case of transference. In place of the normal emotional outlet, bottled up by long years of suppression, she selects a more or less intimate friend whom she induces to cooperate with her in these periodic outbursts. Friendly relations are generally resumed at once with the chosen person unless he or she shows resentment at the false accusations, in which case there may follow a prolonged estrangement.

This woman is not insane. She pursues the occupation of dressmaking with professional skill. The family doctor regards her as a neurotic subject but she has never disclosed her hysterical symptoms to him. For a period of about two years she enjoyed at one time the sympathetic intimacy of a gentleman friend, during which period the abnormal symptoms totally disappeared, but the phenomena returned when the relationship terminated.

Among the delusions or inventions of this patient when in the hypersensitive condition are the following: The neighbors' dogs are attacking her dogs. (This, again, contains an element of transference. Her dogs are substitutes for babies and have an almost equivalent psychic significance.) A customer is going to swindle her out of a dressmaking bill. A friend

spoke angrily when answering the telephone. (Even some sweet, gentle old grandmamma.) Relatives are plotting to deprive her of the adopted daughter . . . and so forth.

Although there is in this case a slight improvement or rationalizing tendency under psychoanalysis, the chances are that the phenomena will persist until the close of the generative period, unless the removal of the husband permits a normal life in place of the present regime of suppression.

In the second case, Mrs. L, aged 40, has artistic tendencies but no actual creative ability. She has been married 20 years but has had no family. Uxorious relations completely defunct for nine years. Marital status maintained by the couple for reasons of respectability and also for the sake of a 17-year-old niece who lives with them. Unlike Mrs. A in the foregoing case, Mrs. L has no regular occupation as a means of diversion or sublimation and is therefore all the more subject to the idle play of hallucination and mental mischief, but her hysteria takes a totally different form.

The dominant impulse in this woman's life is a delusion that a certain remote man is frantically in love with her. In reality they met and were slightly acquainted four years ago but the man treated her with complete indifference or with actual contempt. It has been proved repeatedly to her by letters and newspapers that the party in question has been in Europe for the past three years, but her mental image of him is so strong that she quite frequently "sees" him in California. He

looks out from the faces of three or four totally dissimilar strangers within a week. The patient is certain that each one in turn was the actual man. Positive proof that he never had the slightest interest in her has no effect in dispelling the illusion. She persists that he is just about to make his presence known and consummate a desperately passionate love affair.

This woman is not insane in the ordinary sense. She has excellent taste in domestic, social and cultural affairs. She is absolutely reliable and conscientious in matters of obligation. Her prevailing attitude is one of consideration and generosity. But on the one subject of this fantastic monomania she is outside the pale of reason. The hallucination has taken such complete possession of her mind that everything else is subordinated to it. She lives with the vivid impression day and night. Her physician believes that the actual destruction of the mental image and the consequent withdrawal of the daily pleasure derived from it would seriously injure her health.

It is evident that psychoanalytical treatment of this kind of case can be carried out only with caution. A gradual substitution of sane impressions in place of an idiotic obsession is the only hope. An abrupt puncture of the bubble would be too drastic. Attempts at proving the falsity of the delusion in one step have failed. It must be allowed to dawn on the patient spontaneously that she has been deluded by a figment of her own imagination, to which daily concentration has imparted a

quality of realism. This, however, cannot be done until suppression, the basic cause of the neurosis, is removed.

WHY I FAVOR BIRTH CONTROL

Heywood Broun

The Birth Control Movement has of late gained considerable momentum. The report of the Lambeth conference is sure to have echoes over here, and yet the fight is still a hard one. The first move ought to be a drive against the existing Federal Postoffice Censorship Law. I happen to know something about this because I was co-author with Margaret Leech of a biography of Anthony Comstock. Mr. Comstock's name, insofar as it has not been forgotten, has become a symbol of bigotry and intolerance. Indeed, George Bernard Shaw turned him into a noun, and comstockery is still used in the language as an easy designation for an antiquated type of mind. Mr. Comstock is almost a joke today, and yet the law which he put over still stands and is far from a joke.

Not only does the Federal Postoffice Law prevent the dissemination of Birth Control information through the mails, but it holds up a number of standard and authoritative medical books on all kinds of subjects pertaining to sex.

I have always been disappointed in the small amount of support which the Birth Control movement has had from physicians. Natural-

ly, we all know the exceptional men and women doctors who have fought hard for a liberal attitude. But the profession as a whole has been either frightened or indifferent. It seems to me that they should realize how important a phase of medical freedom they are overlooking. There has been recently a great deal of protest on the part of doctors against the provisions of the Volstead Act which limit the amount of alcohol which a doctor may prescribe for his patients. It has been said, and truthfully I think, that this ought to be left to the doctor. If we trust the physician at all—and we should trust him—we cannot limit him in matters of professional judgment. As a matter of fact, even if you don't want to trust the medical profession, you have to. When a man is very sick and calls in a doctor he quite obviously is putting his fate in the hands of this man. He may say if he chooses, "I don't want any doctor." But the moment he calls one in, it is the appointment of an adviser whose decisions must be accepted.

In the same way, I think, it is gross interference for the state to place precise limitations on the doctor's privilege of imparting contraceptive information. As you know, it is now possible in most states for a doctor in all legality to give contraceptive information to a patient when he has reason to believe that pregnancy would be dangerous to her health. This is done regularly in the case of cardiacs, and people suffering from tuberculosis and kidney ailments. But there still remain two fields in which the need of protection

against pregnancy may be very important. Legally, in New York and Minnesota, for example, the doctor has no right to take into consideration the economic status of his patient. I am afraid no New York court would hold at the moment that it was permissible for a physician to say, "Surely, I will give you contraceptive information because you are far too poor to have a child at the present time." Now, what does this entail? It means that many working women must remain on the job almost up to the moment of final confinement, and that also they must return to work at a time when they are not yet fully recovered. It also means that children are going to be born into the world to families where malnutrition will be inevitable. Surely, it is to the interest of the state to cut down the birth rate in homes where the progress of the child is certain to be endangered by poverty.

The physician might be able to get around legal barriers by taking a psychiatric attitude and saying, "A nervous breakdown could be brought about if you had to go through a pregnancy in your present circumstances in the community." But after all, this is a round-about method. Why can't we honestly leave the whole question up to the doctor? We know now that a first-class modern physician must concern himself with all the details of a patient's life. He has not finished with his job when he has examined the heart and taken the blood pressure. He must, for his own medical purposes, have some idea of the conditions

under which the patient lives, the salary he receives, the expenses for which he is responsible. There should be no check upon the doctor's decision that Birth Control information is necessary. It is a handicap in any profound and thorough-going sort of professional treatment and advice. It may well be that sometime or other Birth Control organizations will ask for more than the physician's unlimited right to give contraceptive information. However, until we have gained that, it is unnecessary to talk of legalizing other sorts of propaganda.

But I must go beyond the stand of the Birth Control organization in one respect. They have been a little over-awed by the respectables of the community. Almost always I hear it said, "Of course, we are asking the right of contraceptive information only for married women." Here again it is easy to see the difficulty which is raised for the physician. He can hardly be expected to hire detectives and investigate whether the woman patient who says she is married, actually is. Nor do I feel it useful or necessary to limit contraceptive information merely to the married. If it is true that the advent of children can be a hardship in many homes, it is even more evident that the coming of a child to an unmarried woman presents a still more serious problem for both the individual and the state. The illegitimate child definitely starts from in back of scratch. It is, of course, from the ranks of the illegitimate that our asylums are chiefly recruited.

I remember I talked once to a girl who worked in a home for unmarried mothers. She spoke of the fact that several of their patients returned pretty regularly every year or year and a half. "We try to rehabilitate them, but in certain cases we fail over and over again." "Why," I said, "don't you ever think it would be a good idea to give these unmarried mothers contraceptive information, so that they might not be such steady patients?" "Oh," said the girl, "that wouldn't be moral."

To me morality always has been and must be now a clear and close consideration of the welfare of the individual and the community. I do not see how anybody can deny the fact that the easy dissemination of Birth Control information through duly licensed physicians, would do much to make us a more happy and healthy city, state and nation.

"IF BLINDNESS WERE HEREDITARY"

Maynard Shipley

Arthur Brisbane would rather be a young cannibal girl and eat the forearm of a slain enemy, than be a member of the British Eugenics Society and refuse permission to a congenitally blind man to marry a congenitally blind woman unless one or the other is previously sterilized. He says so himself.

Says Dr. Brisbane, weeping into our breakfast coffee:

It is not easy to imagine anything more horrible than condemning young men and women already afflicted with the curse of blindness, to the additional curse of childlessness, caused by sterilization.

If blindness were hereditary, some humanitarian or utilitarian excuse might be offered for such brutality, but it is not hereditary.

To which the only possible answer is a raucous "Yeah?"

There are many forms and causes of blindness, some of hereditary origin, some purely accidental, some acquired at birth through lack of proper medical care.

Nothing is better established than the fact that night-blindness (hemeralopia) and atrophy of the optic nerve, which always results in complete blindness, are hereditary—what the geneticist describes as sex-linked deficiencies. They are as purely hereditary as is that other eye affection known as color-blindness. These anomalies of the eye are due, with rare exceptions, to recessive defects carried in the sex chromosome, the method of transmission from parents to offspring being fully known.

At the beginning, night-blindness is simply an inability to see by artificial light; but the defect is progressive and usually ends in total blindness. Edward Nettleton traced night-blindness in a French family through nine consecutive generations, nearly 300 years, a record of more than 2,000 persons—the longest pedigree ever compiled by a student of human heredity. Cunier traced color-blindness in a Belgian family from mother to daughters alone for five generations. (Here the trait was dominant, not recessive; usually color-blindness, like hemophilia, is carried from the father through the unaffected daughter to her son.)

Prof. Edward Murray East is inclined to add the defect known as coloboma as a sex-linked

condition, though this is still a moot question. This disease usually affects only the iris, but it may also affect the lens, the retina, and the choroid coat. In all these cases, there may be more than a single type of defect involved, and they are all heritable traits.

Accurate and complete statistics relative to the question of hereditary blindness are not so abundant as one would like. But certain facts brought out by the researches of E. A. Fay and Dr. A. B. Bell, based upon the figures of the United States census of 1900, supplemented by a genetic questionnaire sent out by Bell, may appropriately be cited. Of the 101,123 blind persons addressed, replies were received from 64,763. About half of these were totally blind and half partially blind. The results show clearly that the tendency to blindness runs in certain families, and hence is often due to a hereditary defect of the eyes. 10,976, or 19 per cent, reported blind relatives, and about 80 per cent of these were brothers, sisters, or direct ancestors. The highest percentage of congenital blindness—25 per cent—was found among the children of consanguineous parents (cousin marriages). More than half of these had blind relatives. The chances of inheriting normal eyes from parents who have inherited blindness—or who were themselves born blind—would seem to be far from even, as compared with those of children born of parents with excellent visual powers and heredity.

There is a long list of other serious eye defects—perhaps a hundred—which are known to be hereditary; for example, cataract, de-

generation of the cornea, glaucoma (excessive production of the eye fluids), ophthalmoplegia or paralysis of the eye muscles, etc. C. Loeb compiled the pedigrees of 304 families in which congenital cataract has been found, and of 42 families in which there was displaced lens (*ectopia lentis*). In Holland, about one boy in 5,000 and one girl in 10,000 has nystagmus—a nervous affection which causes the eyeballs to flicker or move continually.

And so the list might be extended, quite beyond present requirements, as well established evidences of the fact that eye defects and blindness run in certain families. This is true of ear defects also; and deafness is so often clearly congenital that a number of countries have laws forbidding the marriage of deaf-mutes.

It is, of course, true that of the (roughly) 100,000 blind persons in the United States, only about 15 per cent owe their affliction to inheritance. Most adult blindness is due to industrial or other accidents. (There are 200 000 eye accidents a year in American industry.) Of congenital blindness, about 25 per cent is due to *ophthalmia neonatorum*, caused by gonorrhea, and about 10 per cent to syphilis, both preventable in modern practice. But even if we should estimate that only 10 per cent of the blind persons in the United States owe their affliction to heredity, there would be a good "humanitarian or utilitarian excuse" for sterilization of the blind before marrying blind wives or husbands. It is difficult enough for a blind couple to support themselves economic-

ally without having the added burden and care of children. Such families are likely to become public charges; and as it is, this country spends about \$3,000,000 yearly in educating the blind.

Dr. Brisbane would doubtless lament that by the dreadful procedure of sterilization (which in the male takes about ten minutes under a local anaesthetic, and which has no other physical or mental effect except the prevention of parenthood), the world would lose many famous men and women. As a matter of fact, the vast majority of well-known persons who have been blind became so late in life; very few were congenitally blind, and so far as I can learn, none was the child of a blind parent. Milton was 43 before he lost his sight, Bach 62, Handel 65, Lamarck 68, and Galileo 73. Even Helen Keller and Laura Bridgman, the two most famous blind deaf-mutes, were both born normal, of normal parents, and lost sight and hearing from scarlet fever, at about the age of two.

It is true that regulations ordering sterilization of the blind before marriage to the blind must be much less strict, and admit of many more exceptions, than those (such as the California law) compelling sterilization of the feeble-minded. Under favorable economic circumstances, persons blind from accident or non-heritable disease may be permitted to have children without harm to the community, if they desire to add the labor and anxiety involved to the disabilities they already possess. That frequently they would not so desire, is

indicated by the fact that two couples have voluntarily appealed to the British Eugenics Society for sterilization. As with the mentally defective, sterilization (which it must be repeated is *not* castration) is in such cases much more often a boon than an affliction. Its efficacy and harmlessness are attested to by Gossney and Popenoe, the two chief authorities. (See their "Sterilization for Human Betterment.")

In any event, in view of the medical facts here adduced, the Babe Ruth of columnists may restrain his shudders—or keep them for the young lady deyouing her late opponent's arm!

VICE HYSTERIA

Frank Brantigan

"Abolish vice!" This moral slogan sounded throughout Newark, New Jersey, during 1930. A city of nearly a half million and the center of an additional half million population, Newark prided itself on its comparative freedom from white prostitution. True, there had been a few restaurants where the waitresses solicited, but these were promptly closed by the vigilant police. Newark held its civic head high. No painted strumpets paraded its fair streets.

But an unfortunate happening jarred Newark's sense of respectability. A police sergeant was murdered last spring while investigating a case in a filthy tenement in the heart of Newark's Negro colony of forty thousand persons. The brutal killing aroused Newark from its smug complacency.

Newark had felt proud at having no white prostitutes, but what did it offer the youth of the city and suburbs instead? Picture a section of five narrow streets, lined with dilapidated shacks, overrun with lice, where human beings live like animals without proper sanitation. This is Newark's Negro vice belt which had been so calmly overlooked before.

Until the killing, practically every front stoop of these vermin-laden fire-traps was the rendezvous for colored girls of pleasure. The hustlers ranged in ages from sixteen to forty-five, in weight from ninety to two hundred pounds and in hue from "high yellow" to a grimy black. Charges for the service ranged from a dollar to three, depending on the style and the salesmanship of the prostitute.

This is what pure, clean Newark had been giving to its men. Before the murder, Newark had won a reputation among the sporting gentry of nearby cities. These citizens flocked to Newark's black belt. Automobile after automobile of white youths were accosted by the women on the stoops and sidewalks and induced to enter their homes.

Frequently the prostitutes picked the pockets of their customers, knowing that police would not worry much about complaints of such robberies. The police, however, raided the colored brothels continually, but their activities never won much publicity. What! Print a story which would show white men frequenting with colored women? Never! The newspaper boys were kind to the male prisoners and if they did print a raid story on rare occasions, the

names of the men would be omitted. Frequently respectable workmen were nabbed in the Negro joints.

The murder aroused Newark's citizens to the conditions in the section and police strained themselves to round up offenders in the neighborhood. Any white man who was found in the region and could not prove that he lived nearby was arrested on a charge of disorderly conduct or loitering. Of course, the arrests were illegal, but Newark had to satisfy the moral cravings of its hypocritical citizenry.

The foulness of the section was created by Newark citizens, but many vague theories were advanced about the cause of vice. Every raid story was featured in the newspapers which cruelly printed the names of both the white customers and the colored harlots. Undoubtedly numerous Newark marriages went on the rocks when a wife read of her husband's arrest in a Negro brothel.

Newark is going to eliminate some of the tenement fire-traps and replace them with modern, sanitary homes. Some people are skeptical that the hustlers will be driven from a city where there certainly seems to be a demand for their services.

At any rate, Newark hopes by this measure to reduce the size of the vice belt. Within the past month, the police drive on the section has slackened. Nothing is written in the newspapers about the vice belt and it is possible for an innocent white man to walk through the region without being arrested, taken to police headquarters and slated and finger-

printed like a convicted felon. The pleasure girls are still doing business on a small, concealed scale and within six months they will be working on a full-time schedule. The proud citizens will again be able to point with pride to their pure city, devoid of white prostitution, but they will forget about the Negro colony.

RELIGIOUS BUNK IN MODERN LAW

Anthony M. Turano

When the Mayflower started out upon its maiden voyage across the Atlantic, it may be imagined that the lawyers among the passengers had two ponderous bundles securely stored in the hold of the ship. Done up in one impressive package was the Common Law, the *Lex non Scripta*, of England; and in the other equally imposing bale were the dogmas and flim-flammeries of the Ecclesiastical Courts.

This dual legal cargo was, in due time, equitably parcelled out to the various states, and considerable original thinking was thereby saved. That our authorities and doctrines are five hundred years old is no matter. That there is no purely American jurisprudence is also immaterial. The important thing is that we have doctrines! They may be a little gray and superannuated perhaps; but there is no denying that they sound very learned and legal.

As the result of this provident action on the part of the Pilgrim Fathers, we are still indebted to the mother country, not only as to the origin of our substantive law, but also, and with particular force, for our legal theory, pre-

edent and procedure. The most recent enactment of a state legislature, unless there be specific statutory provision for the manner in which it is to be administered, is carried out by the courts of the land, in accordance with principles of pleading and practice to be traced to England. And even after a century and a half of political independence from the mother country, there is still sufficient legal homogeneity between the two nations that the American lawyer quotes in the courtroom such decisions and adjudications as the American and English annotated cases.

It is obvious that within a few centuries, the most ponderous legal doctrines may sometimes become slightly burdensome, and rather hard to apply to modern standards of conduct. Indeed, it is not seldom that the attempt to apply some of them becomes extremely humorous, and arouses no great deal of admiration for that doubtful quantity known as the legal intellect.

The subject of divorce affords an illustration in point. Under the Common Law of England, there was no divorce; all matrimonial matters having been, for many centuries, in the hands of Ecclesiastical Courts established for the purpose. These tribunals applying the Canon Law issued their peculiar edicts, granting limited separations, and sometimes even decreeing euphemistic annulments of the conjugal bonds, which had the same effect as absolute divorce. Yet total divorce, as such, was never allowed. And it will be remembered that Henry VIII, feeling a rather positive contempt

for these tribunals, finally quarreled with them, and eventually they ceased to exist. But as the Common Law was very rich in legal doctrines and formulae concerning civil and penal matters, so also did the Canonical Courts accumulate a veritable fog of dusty precedents and casuistries concerning the law and the procedure in matrimonial cases.

In addition to many another blessing of English origin, this burden of religio-legal flim-flammeries is the precious heritage of every American state. The only state that does not professedly follow the legal calf-path of England is Louisiana, whose laws are a modification of the Roman Civil Law as embodied in the Code Napoleon. But even this state has been influenced by the punitive attitude of the Common Law in matrimonial cases. A person against whom a divorce has been issued upon a complaint of adultery cannot thereafter marry, without incurring the legal penalty for bigamy.

It must be remembered that the right to divorce in the United States depends solely upon statutory enactment of each legislature; and in the absence of specific legislation, as is the case of South Carolina, no such right exists. The state statutes are usually limited to a bare enumeration of the grounds upon which a dissolution of marriage may be decreed by the courts. The grounds are dissimilar enough; but the procedure is discouragingly uniform. As to the manner in which the law is to be administered, they are almost entirely silent, except when they enact into statutory

law the very ecclesiastical doctrines that we have mentioned. So that as our procedure in criminal and civil actions depends upon Common Law precedent, so our technical method in carrying out divorce provisions rests upon the conventions and dogmas evolved by the Canonical Courts of England.

The judicial tribulations involved in trying to fit the nebulous antiquities of the Common Law to American conditions are well known by every lawyer; and the results have been often felt by their lay clients. But the attempt to practice law according to theology has always been a rich source of humor.

When the American lawyer brings an action for divorce in behalf of his client, he invokes the statutory grounds prescribed by his particular state, and prepares his legal documents accordingly. But when the defendant employs counsel on the opposite side, the second attorney will interpose a purely theological defense, based upon the moralistic *lex talionis* of the Middle Ages.

The defense interposed in at least nine-tenths of all divorce cases in every state in the Union is the doctrine of comparative rectitude or re- crimination, known to the profession as *Compensatio Criminis*. It belongs neither to civil, penal nor equity jurisprudence; but its origin, as we are told by all legal text-books on marriage and divorce, is to be traced directly to the *Corpus Juris Canonici*, the Ecclesiastical Law, as it existed before the Council of Trent. That its logic is purely casuistic, and that it has undergone very small modification under mod-

ern conditions, will not fail to appear from one or two examples as to the manner in which it operates.

If a husband or a wife, in seeking a divorce against the other, resorts to a charge of adultery, the defendant may successfully defeat the complaint by proving that the lamenting spouse is guilty of a like offense, or several of them. If the proof be sufficient on both sides, neither party can secure a divorce on that ground in any court in the nation. The result is that a one-sided infidelity will serve to dissolve a marriage, but double adultery will preserve it forever. The reasoning, if it deserves the name, that the lawyer will employ to justify this droll condition is borrowed from Equity Jurisprudence. It is to the effect that a party seeking equity must come into court with clean hands, and that the law will aid the innocent, but punish the guilty. The fact is, however, that by practicing law according to ancient theological ethics, we have preserved a conjugal union that both parties have held in contempt, and whether such marriages yield any social benefit, by example, or otherwise, is also a rather ticklish moral question, to be solved only by the scholastic doctors who promulgated the doctrine.

The same sort of logic is applied when divorce is sought on other grounds: If a husband be guilty of drunkenness, in a state where this is listed as a ground for divorce, the innocent wife may have the conjugal bonds severed. But if the complaining spouse be also guilty of drunkenness, there can be no divorce, because

of this principle of comparative rectitude. There is nothing to do for the wedded pair, except to get drunk together the rest of their lives or that one of them renounce the entertaining vice in favor of the other.

The same religious law is legally applied to cruelty, in such states where this ground is allowed. Thus if one of the parties be guilty of cruelty physical or mental (according to the state statute), the innocent party may obtain a divorce. But if both parties be equally cruel, if both parties stand in *pari delictu*, then it is a case of recrimination, and neither party is entitled to relief. There is no remedy in such cases, except that the parties may continue their domestic *casus belli* until one of them earns a preponderance of blows, or can prove some discrepancy between the cruelty received and the unkindness administered. Thus we see the magistrate acting as a stern pugilistic referee, refusing to pronounce a draw or render a decision until one of the combatants manages to score an obvious victory, whereupon the laurels of divorce are awarded benignantly to the vanquished.

Let no one suspect that there might be some small difference here between the law and the elementary rules of logic. Of course, there is none; and the learned Blackstone himself assures us that the law and reason are identical. Any imaginary conflict between such reasoning and common sense can easily be removed upon the theory that the law in such cases is seeking to use marriage as a penal institution, an economical way of punishing two guilty parties.

If anyone, therefore, is inclined to quarrel with this system of administering justice, his error is undoubtedly due to scholastic ignorance. Let him study the medieval doctors, and learn something about modern divorce.

But it must be confessed that in actual practice these conditions are not so bad as they appear in theory. For it must be remembered that as there are many ways of killing a cat besides drowning it in milk, so also there are other methods of overruling theology besides the burning of monasteries. The simplest way, of course, is a little innocuous perjury in the courtroom. This does not sound exactly legal; but the kind of perjury used in divorce cases is of the innocent variety, a sort of bleached prevarication that the courts insist upon, in order to preserve those legal fictions that are too precious to discard. There is nothing to prevent a wedded pair from agreeing with each other that one of them shall take the witness stand, and charge the other with as many crimes and misdemeanors as shall be statutorily necessary to obtain a divorce. If the defendant, according to agreement, does not object, he stands convicted; and the complaining spouse thereby establishes the angelic character that the law requires of its suitors. In short, the defendant fails to contest or recriminate, and a divorce is granted to the applicant.

To this method of securing divorces, there is just one small objection, that is to say, in addition to the petty scruples one might have against the legally demanded perjury that we have mentioned. It is another hallowed doc-

trine known as collusion. In other words, the agreement to consent to a divorce by the suppression of a valid defense is absolutely illegal. It is the law in every state that husband and wife cannot conspire against the court, to the effect that one will permit the other to obtain a divorce. In fact, no more serious error could be committed by spouses seeking separation than to appear amicably in a court of the law, naively pleading that they cannot agreeably live together. Such a representation would be proof positive of their intent to impose on the court, and that there is no innocent party for the court to protect, and no guilty defendant for the court to punish. Therefore, according to law, there could be no divorce for either party. This is also sound law in every state in the Union, where divorce is allowed.

The doctrine of collusion is based, like many other things in the law, upon a legal fiction. It is a theory to the effect that the state is a party to each divorce case, on account of the public morals involved; and the state, of course, is not to be trifled with. But the fact is that there is not even one single judicial precedent for this tri-partite theorizing. Only once in the history of the United States did a state attempt to set aside a decree of divorce. This was the case of Moore vs. Moore, known as the Mary Pickford case, wherein the Supreme Court of Nevada finally decided that the attorney general had no such right to intrude in behalf of his state. None the less the treasured fiction that the state is a third party in all matrimonial litigation is sternly adhered

to in every jurisdiction. And one or two states have gone so far as to provide by statute that a representative of the state actually appear in court at the time of trial, to see to it that the parties will not take any collusive advantage of the patriarchal third party. Collusion or conspiracy between the parties, if proved, defeats a divorce. Thus it follows that theoretically almost every decree of divorce granted without a contest is a very uncertain legal quantity; being weak because of the harmless perjury mentioned, and being also shaky because the parties connived to bring out only half of the truth.

If the courts must continue to act between husband and wife as theoretical third parties and referees, modern logic would suggest that they do so with some consideration of the sort of conjugal union that they undertake to preserve in each case, and the moral or social value of each particular marriage. This would involve nothing less than a public bonfire of the moldy doctrine of comparative rectitude, and the shelving of its legal cater-cousin, the equally reverent formula of collusion.

A similar arson might be resorted to against the learned decisions and judicial opinions of our own courts. The general effect would be the salutary introduction of a certain amount of ultra-legal good sense in the dispensation of justice in matrimonial cases. It is probable, however, that these rather drastic measures would be violently opposed by our bench and bar, and that a demur would be added by the

publishers of our ponderous case reports. *De mortuis nil nisi bonum.*

SANCTIFIED VAUDEVILLE

Frank Vincent Waddy

An excellent example of evolution is furnished by the gradual change in style and decrease in voltage of religious services during the past thirty years. Many of us remember the austere procedure followed in the Methodist chapel of the Victorian era. In those days the introduction of a "magic lantern" or other secular feature into a church would have seemed like inviting the wrath of heaven to strike the building. All such entertainment was relegated to the Sunday school or assembly room.

The only occasion in former days when a church was allowed to be embellished with gay decorations (except perhaps for a wedding) was at the season of harvest festival, when the congregation sang with enthusiasm:

Come, ye thankful people, come,
Raise the song of harvest home!

and innumerable products of farm and garden were donated for the purpose of ornamenting the usually dismal interior of the church, being transferred later to the interiors of the listeners. I remember one harvest festival during which the parson appealed for funds in relief of famine in India, although during the same service we had all sung loudly that lying quatrain:

Beneath the spreading heavens
No creature but is fed,
And He who feeds the ravens
Will give His children bread.

When I inquired how there could be famine in India, or anywhere else, if at the same time every creature on earth was fed, I was smacked and told not to ask impious questions. My governess stated that these things were a divine mystery, not to be understood by little boys.

The "magic lantern" show of 1890 to 1900, in the assembly room, generally consisting of biblical subjects, a tour in the alleged "Holy Land," or illustrations of foreign missionary effort, supplied the entering wedge for the later introduction of full-blown "movies." A radical step forward was taken when the first stereopticon was admitted to the church building proper. There was of course much opposition to this drastic move, but the objections raised by moth-eaten old women of both sexes were finally overruled on the ground that the assembly room had not sufficient seating capacity and that the congregations must be accommodated at all costs. Those who feared that a thunderbolt might blast the church to hell for this sacrilege were disappointed. On the contrary the attendance of course increased, and likewise the collections.

The advent of the motion picture and the sprouting up of countless movie theaters compelled the churches to keep pace and the manufacture of pious films for their use became a large part of the industry. The gradual adoption of less rigidly sacred subjects naturally followed and the concomitant feature of more secular music to accompany such pictures of course appeared soon afterwards.

It was an easy step from the sacred cantata

or oratorio to operas having a moral lesson and from them to vocal or organ selections from any opera, even those making no specific moral claims. The use of churches for lectures and debates upon ethical subjects led to their use for political and municipal purposes and the custom of applause at such meetings was soon extended to religious services, at which a humorous sally or dramatic verbal climax during the sermon now often elicits a burst of hand-clapping. The congregation seems to say: "Even if God isn't taking any notice of you, we are. Your stuff is good. Give us some more."

The modern service is frankly competitive. The churches realize that if they do not supply some or all of the entertaining elements easily obtainable elsewhere they will have to shut up shop. As an example of an up-to-date Sunday evening performance, the following program was recently given at a Methodist church in Los Angeles. There was no sermon and the audience did not join in the hymns, which were sung by a professional choir. The preacher, clad in a gray business suit, offered a perfunctory prayer, in the tone one uses when talking into a microphone, and the popular show at once began. It comprised an orchestral overture, a cornet duet, a selection from "Tannhauser," a soprano aria from "La Tosca" (with a couple of love ditties as an encore), and finally the piece de resistance—an excellent rendering of Gaul's "Holy City," a fine oratorio.

This free and easy show could never have

been given in a church in the days before the counter-attractions of movies, skating rinks, dance halls and motor excursions had depleted the congregations. On this occasion the doors were open to the street, people could drop in for half an hour or so and then stroll out if they had had enough or were not interested. Many of the audience were in sport clothes and the ladies removed their hats as in a theater. Loud applause greeted the performers and many encore numbers were given.

The "house" was thin, for such a good program, and the collection cannot have paid expenses. The choir master remarked in the vestry afterwards: "I'll be dog-goned if I won't chuck this job before I'll put on a show like this again for such a rotten house!"

Thus the evolution from the pious mummery of former days to frankly secular vaudeville is complete, and yet the churches have the effrontery to claim exemption from taxation. All talk of justifying exemption on grounds of spiritual services rendered to the people is of course hokum. A small fraction of one per cent of the adherents may be impelled to attend from motives of actual piety or deep spiritual feeling but the vast majority go for something to do, or to enjoy the music. The women go to see the styles and the men to escort the women or to keep in touch with their best clients and customers. The young people go because they are told to, or because the church is a free matrimonial agency, affording a convenient opportunity for walks after service and social contacts during the week.

